UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,062	09/05/2003	David S. Colvin	COL406PUS	2061

36547   7590   12/26/2007
BIR LAW, PLC
13092 GLASGOW CT.
PLYMOUTH, MI 48170-5241

EXAMINER
REVAK, CHRISTOPHER A

ART UNIT	PAPER NUMBER
2131	

MAIL DATE	DELIVERY MODE
12/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/605,062	COLVIN, DAVID S.
	Examiner	**Art Unit**	
	Christopher A. Revak	2131	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>*18 November 2007*</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>*1-79,81-84 and 86*</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>*1-79,81-84 and 86*</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>*9/5/03*</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
   application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's request for reconsideration of the finality of the rejection of the last

Office action is persuasive and, therefore, the finality of that action is withdrawn.

2.   Applicant's arguments with respect to claims 1-79,81-84, and 86 have been

considered but are moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 1-52,54-59,61-65,67-79,81-84, and 86 are rejected under 35 U.S.C.

103(a) as being unpatentable over Ananda, U.S. Patent 5,495,411 in view of Grundy,

U.S. Patent 5,291,598, in further view of Xu et al, U.S. Patent 6,915,425.

As per claim 1, Ananda teaches of a method for securing software to reduce

unauthorized use of the software, the method comprising providing software including

data representing digital content; associating at least one identifier with the software

prior to distribution of the software, the identifier being detectable by an authorized

representative to request authentication of the software; and distributing the software

with the at least one identifier to a user (col. 3, lines 11-15 & 21-28; col. 4, lines 18-28;

col. 6, lines 57-63; and col. 10, lines 4-15). The teachings of Ananda fail to disclose of

allowing the software to function if authorization is not detected based on an identifier

not being detected. It is disclosed by Grundy of ownership details records being

reviewed and if there is no information in regards to a full-function mode, the software

will continue to operate (col. 5, lines 39-49). It would have been obvious to a person of

ordinary skill in the art at the time of the invention to have been motivated to apply

controls for dictating software usage requirements. The teachings of Grundy recite of

motivational benefits by disclosing of the need to permit consumers to evaluate

products more efficient and to provide for means to protect against privacy (col. 4, lines

9-18). It is obvious the teachings of Ananda would have benefited from the disclosure

of Grundy in that further protection would have been added by allowing software to

function even if not in a fully operational mode.

The teachings of Ananda disclose of a continuous connection to the remote

authorized representative entity and the combined teachings fail to teach that the

continuous connection to a remote authorized entity is not required and that the

authorized representative entity is installed in or on the user device. It is taught by Xu et

al of permitting offline (non-continuous connection) playback of digital content files

which includes managing the related content rights (col. 2, lines 23-24). Keys are

retrieved by the end user's system and a license (authorized representative entity) is

retrieved from a license server which is installed on the end user's system, the license is

required for playback of the content file (col. 3, lines 11-19 and col. 5, lines 24-38). It

would have been obvious to a person of ordinary skill in the art at the time of the

invention to have been motivated to apply localized validation of licensed software. The
teachings of Xu et al disclose of motivation for applying localized validation by reciting of
the need to protect digital information and management of digital rights in an offline
environment (col. 2, lines 15-19). It is obvious that the teachings of Ananda would have
benefited from validation of licensed software by using the authorized representative
installed in or on the user's device whereby the authorized representative would then be
able to valid the use of licensed software offline on an enduser's system as taught by
Xu et al.

As per claims 2,24,47, and 76, Ananda discloses wherein the software is self
activating and self authenticating in conjunction with the authorized (col. 10, lines 4-15).
The teachings of Xu et al are relied upon for disclosing of the permitting offline (non-
continuous connection) playback of digital content files which includes managing the
related content rights (col. 2, lines 23-24), please refer above for the motivation of
applying the aspect of offline validation as is disclosed by Xu et al.

As per claim 3, it is taught by Ananda wherein the digital content is selected from
the group consisting of data representing music, data representing video, instructions
executable by a computer, code for an application program, code for an operating
system, code for a game, data representing a movie, data representing graphics, data
representing watermarked works, data representing a magazine, and data representing
a book (col. 1, lines 17-19).

As per claim 4, it is disclosed by Ananda wherein the identifier is hidden from the
user (col. 9, lines 25-34 and col. 10, line 63 through col. 11, line 8).

As per claim 5, Ananda teaches wherein the identifier is tamper resistant to the user (col. 9, lines 25-34 and col. 10, line 63 through col. 11, line 8).

As per claim 6, Ananda discloses wherein the at least one identifier is embedded within a file of at least one component of the software (col. 9, lines 25-34 and col. 10, line 63 through col. 11, line 8).

As per claim 7, it is taught by Ananda wherein the at least one identifier is a binary code (col. 6, lines 57-63).

As per claim 8, it is disclosed by Ananda wherein the at least one identifier is encrypted (col. 9, lines 25-34 and col. 10, line 63 through col. 11, line 8).

As per claim 9, Ananda teaches wherein the step of distributing the software comprises electronically distributing the software (col. 3, lines 19-32).

As per claim 10, Ananda discloses wherein the step of distributing the software comprises distributing the software on a computer readable storage medium (col. 3, lines 57-63 and col. 9, lines 35-36).

As per claim 11, it is taught by Ananda of performing a process to determine whether an attempted access to the software is authorized based on detection of the at least one identifier (col. 3, lines 11-15).

As per claim 12, it is disclosed by Ananda wherein the step of performing a process comprises determining whether the attempted access to the software is authorized based on registration information associated with the software (col. 3, lines 11-15 & 21-28).

As per claim 13, Ananda teaches wherein the step of performing a process comprises determining whether the attempted access to the software is authorized based on registration information associated with the software and registration information associated with a user device (col. 3, lines 11-15 & 21-28).

As per claim 14, Ananda discloses of communicating registration information to an authorized representative of the software; generating at least one authentication code based on the registration information; and associating the authentication code with the software (col. 3, lines 11-15 & 21-28).

As per claim 15, it is taught by Ananda disclose of an authorized representative (col. 10, lines 4-15 and col. 11, lines 61-65) and the teachings of Xu et al are relied upon for disclosing of the permitting offline (non-continuous connection) playback of digital content files which includes managing the related content rights (col. 2, lines 23-24), please refer above for the motivation of applying the aspect of offline validation as is disclosed by Xu et al.

As per claims 16 and 39, Xu et al teaches wherein the authorized representative entity comprises software (col. 2, lines 23-24). please refer above for the motivation of applying the aspect of offline validation as is disclosed by Xu et al.

As per claims 17 and 40, the teachings of Xu et al are relied upon for disclosing of the permitting offline (non-continuous connection) playback of digital content files which includes managing the related content rights (col. 2, lines 23-24), please refer above for the motivation of applying the aspect of offline validation as is disclosed by Xu et al. The teachings of Xu et al disclose of the authorized representative entity being

software, but fail to disclose of the authorized representative entity comprises a

hardware device such as a computer chip, hardware device integral with a CPU, a PC

card, or a microprocessor. The examiner hereby takes official notice that to implement

a hardware device being dedicated to a specific function is well known. It is obvious to

one of ordinary skill in the art that hardware device can be developed which are

designed solely for a particular purposed and are dedicated towards executing a certain

task and these devices can take the form of computer chip, hardware device integral

with a CPU, a PC card, or a microprocessor.

As per claims 18 and 41, Xu et al teaches wherein the authorized representative

entity comprises software (col. 2, lines 23-24). please refer above for the motivation of

applying the aspect of offline validation as is disclosed by Xu et al. The teachings of Xu

et al disclose of the authorized representative entity being software, but fail to disclose

of the authorized representative entity comprises a hardware device such as a

computer chip, hardware device integral with a CPU, a PC card, or a microprocessor.

The examiner hereby takes official notice that to implement a hardware device being

dedicated to a specific function is well known. It is obvious to one of ordinary skill in the

art that hardware device can be developed which are designed solely for a particular

purposed and are dedicated towards executing a certain task and these devices can

take the form of computer chip, hardware device integral with a CPU, a PC card, or a

microprocessor.

As per claims 19 and 42, it is taught by Ananda wherein the at least one identifier

is included in a filename for at least one component of the software (col. 6, lines 57-65).

As per claims 20 and 43, it is disclosed by Ananda wherein the identifier is selected from the group consisting of the filename, a filename prefix, a filename suffix, a filename extension, a filename extension prefix, and a filename extension suffix (col. 6, lines 57-65).

As per claims 21 and 44, Ananda teaches wherein the identifier is tamper resistant to the user (col. 9, lines 25-34 and col. 10, line 63 through col. 11, line 8).

As per claims 22 and 45, Ananda discloses wherein the identifier is hidden to the user (col. 9, lines 25-34 and col. 10, line 63 through col. 11, line 8).

As per claim 23, it is taught by Ananda of a method for securing software to reduce unauthorized use of the software, the method comprising providing software including data representing digital content; associating a plurality of identifiers with the software prior to distribution of the software, at least one identifier being detectable by an authorized representative to request authentication of the software; and distributing the software with the plurality of identifiers to a user (col. 3, lines 11-15 & 21-28; col. 4, lines 18-28; col. 6, lines 57-63; and col. 10, lines 4-15). The teachings of Ananda fail to disclose of allowing the software to function if authorization is not detected based on an identifier not being detected. It is disclosed by Grundy of ownership details records being reviewed and if there is no information in regards to a full-function mode, the software will continue to operate (col. 5, lines 39-49). It would have been obvious to a person of ordinary skill in the art at the time of the invention to have been motivated to apply controls for dictating software usage requirements. The teachings of Grundy recite of motivational benefits by disclosing of the need to permit consumers to evaluate

products more efficient and to provide for means to protect against privacy (col. 4, lines 9-18). It is obvious the teachings of Ananda would have benefited from the disclosure of Grundy in that further protection would have been added by allowing software to function even if not in a fully operational mode.

The teachings of Ananda disclose of a continuous connection to the remote authorized representative entity and the combined teachings fail to teach that the continuous connection to a remote authorized entity is not required and that the authorized representative entity is installed in or on the user device. It is taught by Xu et al of permitting offline (non-continuous connection) playback of digital content files which includes managing the related content rights (col. 2, lines 23-24). Keys are retrieved by the end user's system and a license (authorized representative entity) is retrieved from a license server which is installed on the end user's system, the license is required for playback of the content file (col. 3, lines 11-19 and col. 5, lines 24-38). It would have been obvious to a person of ordinary skill in the art at the time of the invention to have been motivated to apply localized validation of licensed software. The teachings of Xu et al disclose of motivation for applying localized validation by reciting of the need to protect digital information and management of digital rights in an offline environment (col. 2, lines 15-19). It is obvious that the teachings of Ananda would have benefited from validation of licensed software by using the authorized representative installed in or on the user's device whereby the authorized representative would then be able to valid the use of licensed software offline on an enduser's system as taught by Xu et al.

As per claim 25, Ananda teaches wherein at least one of the identifiers is an activation code that must be entered by the user prior to transferring the software (col. 3, lines 11-15 & 21-28).

As per claim 26, Ananda discloses wherein the digital content is selected from the group consisting of data representing music, data representing video, instructions executable by a computer, code for an application program, code for an operating system, code for a game, data representing a movie, data representing graphics, data representing watermarked works, data representing a magazine, and data representing a book (col. 1, lines 17-19).

As per claim 27, it is taught by Ananda wherein at least one of the at least one identifiers is hidden from the user (col. 9, lines 25-34 and col. 10, line 63 through col. 11, line 8).

As per claim 28, it is disclosed by Ananda wherein at least one of the at least one identifiers is tamper resistant to the user (col. 9, lines 25-34 and col. 10, line 63 through col. 11, line 8).

As per claim 29, Ananda teaches wherein the at least one identifier is embedded within a file of at least one component of the software (col. 6, lines 57-65).

As per claim 30, Ananda discloses wherein the at least one identifier is a binary code (col. 6, lines 57-63).

As per claim 31, it is taught by Ananda wherein the at least one identifier is encrypted (col. 9, lines 25-34 and col. 10, line 63 through col. 11, line 8).

As per claim 32, Xu et al discloses wherein the software is electronically distributed software (col. 2, lines 23-24), please refer above for the motivation of applying the aspect of offline validation as is disclosed by Xu et al.

As per claim 33, it is taught by Xu et al wherein the software is transferred directly to a user device from a local computer readable storage medium software (col. 2, lines 23-24), please refer above for the motivation of applying the aspect of offline validation as is disclosed by Xu et al.

As per claim 34, Ananda discloses of performing a process to determine whether an attempted access to the software is authorized based on detection of the at least one identifier (col. 3, lines 11-15).

As per claim 35, it is taught by Ananda wherein the step of performing a process comprises determining whether the attempted access to the software is authorized based on registration information associated with the software (col. 3, lines 21-29).

As per claim 36, it is disclosed by Ananda wherein the step of performing a process comprises determining whether the attempted access to the software is authorized based on registration information associated with the software and registration information associated with a user device (col. 3, lines 21-29).

As per claim 37, Ananda teaches of communicating registration information to an authorized representative of the software; generating at least one authentication code based on the registration information; and associating the authentication code with the software (col. 11, lines 9-13).

As per claim 38, the teachings of Xu et al are relied upon for disclosing of the

permitting offline (non-continuous connection) playback of digital content files which

includes managing the related content rights which includes an authorized

representative entity is installed on the user device (col. 2, lines 23-24), (col. 2, lines

23-24), please refer above for the motivation of applying the aspect of offline validation

as is disclosed by Xu et al.

As per claim 46, Ananda discloses of a method for securing software to reduce

unauthorized use having at least one authorized representative entity installed on or in a

user device, the method comprising associating at least one identifier with the software

to designate the software for protection from unauthorized use; detecting the at least

one identifier using the authorized representative installed on or in the user device;

determining whether the user device is authorized to access the software using the

authorized representative entity installed on or in the user device; and controlling

access to the software based on whether the user device is determined to be authorized

(col. 3, lines 11-15 & 21-28; col. 4, lines 18-28; col. 6, lines 57-63; and col. 10, lines 4-

15). The teachings of Ananda fail to disclose of allowing the software to function if

authorization is not detected based on an identifier not being detected. It is disclosed

by Grundy of ownership details records being reviewed and if there is no information in

regards to a full-function mode, the software will continue to operate (col. 5, lines 39-

49). It would have been obvious to a person of ordinary skill in the art at the time of the

invention to have been motivated to apply controls for dictating software usage

requirements. The teachings of Grundy recite of motivational benefits by disclosing of

the need to permit consumers to evaluate products more efficient and to provide for

means to protect against privacy (col. 4, lines 9-18). It is obvious the teachings of

Ananda would have benefited from the disclosure of Grundy in that further protection

would have been added by allowing software to function even if not in a fully operational

mode.

The teachings of Ananda disclose of a continuous connection to the remote

authorized representative entity and the combined teachings fail to teach that the

continuous connection to a remote authorized entity is not required and that the

authorized representative entity is installed in or on the user device. It is taught by Xu et

al of permitting offline (non-continuous connection) playback of digital content files

which includes managing the related content rights (col. 2, lines 23-24). Keys are

retrieved by the end user's system and a license (authorized representative entity) is

retrieved from a license server which is installed on the end user's system, the license is

required for playback of the content file (col. 3, lines 11-19 and col. 5, lines 24-38). It

would have been obvious to a person of ordinary skill in the art at the time of the

invention to have been motivated to apply localized validation of licensed software. The

teachings of Xu et al disclose of motivation for applying localized validation by reciting of

the need to protect digital information and management of digital rights in an offline

environment (col. 2, lines 15-19). It is obvious that the teachings of Ananda would have

benefited from validation of licensed software by using the authorized representative

installed in or on the user's device whereby the authorized representative would then be

able to valid the use of licensed software offline on an enduser's system as taught by

Xu et al.

As per claim 48, it is disclosed by Ananda wherein the step of obtaining

registration information is performed by the at least one authorized representative entity

(col. 3, lines 21-29). The teachings of Xu et al are relied upon for disclosing of the

permitting offline (non-continuous connection) playback of digital content files which

includes managing the related content rights (col. 2, lines 23-24), please refer above for

the motivation of applying the aspect of offline validation as is disclosed by Xu et al.

As per claims 49 and 50, the teachings of Xu et al are relied upon for disclosing

of the permitting offline (non-continuous connection) playback of digital content files

which includes managing the related content rights (col. 2, lines 23-24), please refer

above for the motivation of applying the aspect of offline validation as is disclosed by Xu

et al. The teachings of Xu et al disclose of the authorized representative entity being

software, but fail to disclose of the authorized representative entity comprises a

hardware device such as a computer chip, hardware device integral with a CPU, a PC

card, or a microprocessor. The examiner hereby takes official notice that to implement

a hardware device being dedicated to a specific function is well known. It is obvious to

one of ordinary skill in the art that hardware device can be developed which are

designed solely for a particular purposed and are dedicated towards executing a certain

task and these devices can take the form of computer chip, hardware device integral

with a CPU, a PC card, or a microprocessor.

As per claim 51, it is disclosed by Xu et al wherein the program instructions comprise an operating system component (col. 2, lines 23-24), please refer above for the motivation of applying the aspect of offline validation as is disclosed by Xu et al.As per claim 52, it is disclosed by Ananda wherein the program instructions comprise an application program (col. 6, lines 57-63).

As per claim 54, Ananda discloses wherein the step of determining whether the user device is authorized comprises comparing registration information associated with the user device to registration information associated with the software (col. 3, lines 16-49).

As per claim 55, it is taught by Ananda wherein the registration information associated with the software is embedded within an authentication code (col. 3, lines 24-28).

As per claim 56, it is disclosed by Ananda wherein the registration information associated with the software is encrypted (col. 11, line 61 through col. 12, line 14).

As per claim 57, Ananda discloses wherein the registration information includes device information (col. 9, lines 5-6), however the teachings fail to disclose of using hardware information. The examiner hereby takes official notice that unique information is used to associate a device with software information. It would have obvious to a person of ordinary skill in the art at the time of the invention to have been motivated to apply the use of uniquely identifying information that is used to associate software with a particular device. It is obvious to use information such as a serial number registered to software so that the software is not used on another unauthorized machine.

As per claim 58, it is taught by Ananda wherein the registration information includes device information (col. 3, lines 11-15), however the teachings fail to disclose of including hardware information associated with a unique user device. The examiner hereby takes official notice that unique information is used to associate a device with software information. It would have obvious to a person of ordinary skill in the art at the time of the invention to have been motivated to apply the use of uniquely identifying information that is used to associate software with a particular device. It is obvious to use information such as a serial number registered to software so that the software is not used on another unauthorized machine.

As per claim 59, it is disclosed by Ananda wherein the hardware information includes device information (col. 8, lines 18-23), however the teachings fail to disclose of including hardware information associated with a serial number. The examiner hereby takes official notice that unique information is used to associate a device with software information. It would have obvious to a person of ordinary skill in the art at the time of the invention to have been motivated to apply the use of uniquely identifying information that is used to associate software with a particular device. It is obvious to use information such as a serial number registered to software so that the software is not used on another unauthorized machine.

As per claim 61, the teachings of Xu et al are relied upon for disclosing of the permitting offline (non-continuous connection) playback of digital content files which includes managing the related content rights (col. 2, lines 23-24), please refer above for the motivation of applying the aspect of offline validation as is disclosed by Xu et al.

As per claim 62, it is taught by Xu et al wherein the software is transferred
directly to a user device from a local computer readable storage medium software (col.
2, lines 23-24), please refer above for the motivation of applying the aspect of offline
validation as is disclosed by Xu et al.

As per claim 63, Xu et al discloses wherein the software is electronically
distributed software (col. 2, lines 23-24), please refer above for the motivation of
applying the aspect of offline validation as is disclosed by Xu et al.

As per claim 64, Xu et al discloses wherein the software is electronically
distributed software (col. 2, lines 23-24), please refer above for the motivation of
applying the aspect of offline validation as is disclosed by Xu et al.

As per claim 65, Xu et al discloses wherein the software is electronically
distributed software across a network (col. 2, lines 23-24), please refer above for the
motivation of applying the aspect of offline validation as is disclosed by Xu et al.

As per claim 67, it is taught by Ananda wherein the step of controlling access
comprises preventing the software from being transferred to a user device if at least one
authorized representative is inaccessible (col. 10, lines 8-15).

As per claim 68, it is disclosed by Ananda wherein the step of controlling access
comprises preventing the software from being installed on a user device if at least one
authorized representative is not present (col. 10, lines 8-15).

As per claim 69, Ananda teaches wherein the step of controlling access
comprises preventing the software from being executed by the user device (col. 10,
lines 8-15).

As per claim 70, Ananda discloses wherein the step of controlling access

comprises providing limited access to the software (col. 10, lines 8-15).

As per claim 71, it is taught by Ananda wherein the software comprises digital

content (col. 1, lines 17-19).

As per claim 72, it is disclosed by Ananda wherein the software is selected from

the group consisting of data representing music, data representing video, instructions

executable by a computer, code for an application program, code for an operating

system, code for a game, data representing a movie, data representing graphics, data

representing watermarked works, data representing a magazine, and data representing

a book (col. 1, lines 17-19).

As per claim 73, Ananda teaches wherein the software comprises instructions for

generating at least one authentication code based on registration information

associated with the user device (col. 11, lines 9-13).

As per claim 74, Ananda discloses wherein the software comprises instructions

for encrypting the authentication code (col. 9, lines 25-34 and col. 10, line 63 through

col. 11, line 8).

As per claim 75, it is taught by Ananda of a method for securing software to

reduce unauthorized use of the software, the method comprising providing software

including data representing digital content; detecting an identifier associated with the

software indicating that protection from unauthorized use is desired; communicating

with an authorized representative entity to determine whether a user device attempting

to access the software is authorized to access the software; and controlling access to

the software based on whether the user device is authorized (col. 3, lines 11-15 & 21-28; col. 4, lines 18-28; col. 6, lines 57-63; and col. 10, lines 4-15). The teachings of Ananda fail to disclose of allowing the software to function if authorization is not detected based on an identifier not being detected. It is disclosed by Grundy of ownership details records being reviewed and if there is no information in regards to a full-function mode, the software will continue to operate (col. 5, lines 39-49). It would have been obvious to a person of ordinary skill in the art at the time of the invention to have been motivated to apply controls for dictating software usage requirements. The teachings of Grundy recite of motivational benefits by disclosing of the need to permit consumers to evaluate products more efficient and to provide for means to protect against privacy (col. 4, lines 9-18). It is obvious the teachings of Ananda would have benefited from the disclosure of Grundy in that further protection would have been added by allowing software to function even if not in a fully operational mode.

The teachings of Ananda disclose of a continuous connection to the remote authorized representative entity and the combined teachings fail to teach that the continuous connection to a remote authorized entity is not required and that the authorized representative entity is installed in or on the user device. It is taught by Xu et al of permitting offline (non-continuous connection) playback of digital content files which includes managing the related content rights (col. 2, lines 23-24). Keys are retrieved by the end user's system and a license (authorized representative entity) is retrieved from a license server which is installed on the end user's system, the license is required for playback of the content file (col. 3, lines 11-19 and col. 5, lines 24-38). It

would have been obvious to a person of ordinary skill in the art at the time of the invention to have been motivated to apply localized validation of licensed software. The teachings of Xu et al disclose of motivation for applying localized validation by reciting of the need to protect digital information and management of digital rights in an offline environment (col. 2, lines 15-19). It is obvious that the teachings of Ananda would have benefited from validation of licensed software by using the authorized representative installed in or on the user's device whereby the authorized representative would then be able to valid the use of licensed software offline on an enduser's system as taught by Xu et al.

As per claim 77, Ananda teaches wherein the identifier associated with the software is contained within a filename for the software (col. 6, lines 57-65).

As per claim 78, the teachings of Xu et al are relied upon for disclosing of the permitting offline (non-continuous connection) playback of digital content files which includes managing the related content rights (col. 2, lines 23-24), please refer above for the motivation of applying the aspect of offline validation as is disclosed by Xu et al. The teachings of Xu et al disclose of the authorized representative entity being software, but fail to disclose of the authorized representative entity comprises a hardware device such as a computer chip, hardware device integral with a CPU, a PC card, or a microprocessor. The examiner hereby takes official notice that to implement a hardware device being dedicated to a specific function is well known. It is obvious to one of ordinary skill in the art that hardware device can be developed which are designed solely for a particular purposed and are dedicated towards executing a certain

task and these devices can take the form of computer chip, hardware device integral

with a CPU, a PC card, or a microprocessor.

As per claim 79, it is taught by Ananda wherein the step of communicating with

the authorized representative entity comprises communicating with at least one

software module associated with the user device (col. 3, lines 11-15 & 21-28).

As per claim 81, Ananda teaches of generating an authentication code based on

registration information associated with the user device; and associating the

authentication code with the software (col. 3, lines 11-15 & 21-28).

As per claim 82, Ananda discloses wherein the step of communicating comprises

generating an authentication code based on registration information associated with the

user device; and comparing the authentication code with a previously generated

authentication code associated with the software to determine if the user device is

authorized (col. 3, lines 11-15 & 21-28).

As per claim 83, it is taught by Ananda wherein the step of comparing the

authentication code comprises determining if at least a portion of system information

associated with the user device matches system information encoded within the

authentication code associated with the software (col. 3, lines 11-15 & 21-28).

As per claim 84, Ananda discloses wherein the registration information includes

device information (col. 9, lines 5-6) , however the teachings fail to disclose of using

hardware information. The examiner hereby takes official notice that unique information

is used to associate a device with software information. It would have obvious to a

person of ordinary skill in the art at the time of the invention to have been motivated to

apply the use of uniquely identifying information that is used to associate software with

a particular device. It is obvious to use information such as a serial number registered

to software so that the software is not used on another unauthorized machine.

As per claim 86, Ananda discloses wherein the digital content is selected from

the group consisting of data representing music, data representing video, instructions

executable by a computer, code for an application program, code for an operating

system, code for a game, data representing a movie, data representing graphics, data

representing watermarked works, data representing a magazine, and data representing

a book (col. 1, lines 17-19).

5.   Claims 53,60, and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Ananda, U.S. Patent 5,495,411 in view of Grundy, U.S. Patent 5,291,598, in further

view of Xu et al, U.S. Patent 6,915,425 in further view of Barber et al, U.S. Patent

5,390,297.

As per claim 53, the combined teachings fail to disclose of using a secondary

user device. The combined teachings fail to disclose of a secondary device. It is taught

by Barber et al that licensed software can be used on multiple workstations (secondary

devices)(col. 2, lines 21-36 & 49-67). It would have been obvious to a person of

ordinary skill in the art at the time of the invention to have been motivated to allow

multiple copies of licensed software to be used on different computers. The teachings

of Barber et al disclose of motivation for doing so by reciting of the need to manage

licenses that are to be run on multiple nodes (secondary devices) and to limit the

number of copies of a program the are executing simultaneously on the nodes of a

network which in turn protects the vendors protected software from being illicitly used

(col. 2, lines 6-9 and col. 3, lines 30-42). It is obvious that the combined teachings of

Ananda, Grundy et al, and Xu et al would have allowed the incorporation of Barber et al

and the feature of limiting the simultaneous copies to authorized computers.

As per claims 60 and 66, Ananda fails to disclose of using a multiple user device.

The combined teachings fail to disclose of a transferring software to a secondary

device. It is taught by Barber et al that licensed software can be used on multiple

workstations (secondary devices) and authorized is checked to see if the transfer is

permitted (col. 2, lines 21-36 & 49-67). It would have been obvious to a person of

ordinary skill in the art at the time of the invention to have been motivated to allow

multiple copies of licensed software to be used on different computers. The teachings

of Barber et al disclose of motivation for doing so by reciting of the need to manage

licenses that are to be run on multiple nodes (secondary devices) and to limit the

number of copies of a program the are executing simultaneously on the nodes of a

network which in turn protects the vendors protected software from being illicitly used

(col. 2, lines 6-9 and col. 3, lines 30-42). It is obvious that the combined teachings of

Ananda and Xu et al would have allowed the incorporation of Barber et al and the

feature of limiting the simultaneous copies to authorized computers.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher A. Revak whose telephone number is 571-272-3794. The examiner can normally be reached on Monday-Friday, 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CR

December 20, 2007

CHRISTOPHER REVAK
PRIMARY EXAMINER